



07-21-05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Lutzker, Robert
SERIAL NO.: 09/835,861
FILED: April 16, 2001
FOR: Apparatus and Method for Improving the Taste of Wine
EXAMINER: Curtis E. Sherrer, Esq.
ART UNIT: 1761

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION TO REVIVE APPLICATION FOR UNINTENTIONAL
FAILURE TO RESPOND TO OFFICE ACTION

Dear Sirs:

Applicant hereby petitions to revive the above-identified application which was unintentionally abandoned for failure to respond to an office action dated of December 21, 2004.

The application became abandoned when the requisite response was not filed by the due date. As soon as it was realized that the application became abandoned this petition was prepared and submitted to the Patent & Trademark Office. The failure to respond to the office action was unintentional.

A check in the amount of \$750.00 is enclosed to cover the fee.

Respectfully submitted,

07/22/2005 SLUANG1 00000006 09835861

01 FC:2453

750.00 OP

BEST AVAILABLE COPY

Thomas A. O'Rourke
Reg. No.: 27,665
BODNER & O'ROURKE, L.L.P.
425 Broadhollow Road
Melville, New York 11747
(631) 423-2700



CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail, postage prepaid, in an envelope addressed to the Hon. Commissioner of Patents and Trademarks, PO Box 1450, Alexandria, VA 22313-1450, this 20th day of July, 2005.

A handwritten signature in cursive script, appearing to read "Thomas A. O'Rourke".

Thomas A. O'Rourke



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Robert Lutzker
SERIAL NO.: 09/835,861
FILED: 04/16/2001
FOR: APPARATUS AND METHOD FOR IMPROVING THE TASTE OF
WINES

RULE 37 C.F.R. 1.131 DECLARATION

**Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313**

July 7, 2005

As the above named inventor I declare that:

- 1. I make this declaration on my personal knowledge and upon information and belief.**
- 2. I am the inventor of the above identified application.**
- 3. I understand that the examiner contends that claims 1-3, and 5 of the present application are anticipated by Pieffer (US 6,287,614) under 35 U.S.C. 102(e). I also understand that claims 4, 6-16 and 23-29 have been rejected in view of the combination of Pieffer and the U.S. Patent to Yu (6,390,319 which issued after the filing date of the present application.**
- 4. I understand Pieffer claims benefit of the provisional application filing date of December 14, 1998.**
- 5. Yu was filed on November 30, 1999 and claims priority on a provisional application filed November 30, 1998.**

6. For the reasons set forth below the invention of the above identified application by me antedates the filing date of the patent taught by Pieffer and the patent by Yu.
7. Pursuant to 37 C.F.R. 1.131 I submit the attached evidence to support the position that the invention of the above identified application was made prior to the December 14, 1998 filing date of Pieffer and the November 30, 1998 filing date of Yu.
8. The applicant submits three documents to demonstrate that the present invention antedates the filing dates of Pieffer and Yu.
9. The exhibits are copies of three pages from my notebook, labeled page 4, page 5 and page 8. Each page discloses the present invention and is dated before the earliest filing dates of the patents taught by Pieffer and Yu and thus Pieffer and Yu should be withdrawn as references.
10. The documents attached hereto as pages 4, 5 and 8 are each dated prior to the December 14, 1998 filing date of Pieffer and the November 30, 1998 filing date of Yu.
11. The pertinent claim language of the present invention is as follows:

I claim:

1. An apparatus for improving the taste of a beverage in a container said container having a top and a bottom, said beverage containing an polar molecule, said apparatus having a base for the bottom of said container, said base comprising a magnet that applies a magnetic force to the beverage, said magnet having a first surface and a second surface, said first surface being adjacent to the bottom of the container and said second surface being on the opposite side of the magnet from the first surface, said second surface having a metal plate in proximity thereto.
2. The apparatus according to claim 1 wherein the beverage contains an alcohol.
3. The apparatus according to claim 1 wherein the beverage is coffee.
4. The apparatus according to claim 1 further comprising a means for applying a magnetic force to the top of said container.

5. The apparatus according to claim 4 wherein the beverage is wine.

12. Support for the claims of the present invention can be found in the exhibits submitted by the applicant. Support can be found for claims one and two in the exhibit marked page 4. Page 4 clearly shows a container with a top and bottom, which contains a beverage (page 4 line 7), placed atop the apparatus claimed by the present invention (page 4 line 12). The apparatus described in page one comprises a magnet with a first and second surface, said first surface being adjacent to the bottom of the container. Evidence of the positive effect of placing a beverage in a container on the present invention can be found on page 4 line 15. The positive effect of the apparatus, namely the improvement of the taste of the beverage, is noted on line 15.
13. Further support for claims one and two can be found in the Exhibit marked page 5. Page 5 clearly shows the container (page 5 line 8) and magnet (page 5 line 13) described in the previous exhibit with the addition of a metal plate (page 5 line 14) to the second surface of the magnet. The increased positive effects of the apparatus with the addition of the metal plate is noted on line 13.
14. Thus the exhibits marked pages 4 and 5 evince the applicant's reduction to practice of claims one and two for an apparatus for improving the taste of a beverage in a container said container having a top and a bottom, said beverage containing an polar molecule, said apparatus having a base for the bottom of said container, said base comprising a magnet that applies a magnetic force to the beverage, said magnet having a first surface and a second surface, said first surface being adjacent to the bottom of the container and

said second surface being on the opposite side of the magnet from the first surface, said second surface having a metal plate in proximity thereto. Pages 4 and 5 fully describes an apparatus to improve the taste of a beverage, which comprises placing a container of a beverage on a magnet with a metal plate underneath it, and describes the positive effects of said apparatus, therefore claims one and two of the present invention antedate the patent taught by Pieffer.

15. Support for claims four and five can be found in the exhibit marked page 8. Page 8 clearly shows the device described in claim one, namely a magnet with a metal plate on the bottom side (page 8 lines 12 and 13) with the addition of a means for applying a magnetic field to the top of the container. The means for applying a magnetic field to the top of the container described in the exhibit is a magnetic cork (page 8 line 3). The increased positive effects of the addition of a means for applying a magnetic field to the top of the container which contains wine is noted on line 4 which reads in part "This is the ideal combination for treating wine."
16. Thus the exhibit marked page 8 evinces the applicant's reduction to practice of claims four and five. Page 8 fully describes the positive effects of adding a means for applying a magnetic field to the top of the container of a beverage and therefore claims four and five antedate the patent taught by Pieffer.
17. Further supporting applicant's prior inventor are copies of receipts dated prior to December 14, 1998 and prior to November 30, 1998 for the purchase of magnets used to make the claimed invention.
18. For the foregoing reasons the applicant asserts that Pieffer and Yu do not anticipate the

present invention under U.S.C. 102(e) because the patents by Pieffer and Yu are antedated by the present invention.

All statements made herein of my own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,



Robert Lutzker

CERTIFICATE OF MAILING

I hereby certify that the foregoing Affidavit was mailed by first class mail, postage prepaid, in an envelope addressed to the Hon. Commissioner of Patents, P.O. Box 1450 Alexandria, VA 22313, this 19 day of July, 2005.



Thomas A. O'Rourke

MEMOGENDA.

JUL 20 2005

PAGE 4

X - Completed T - Transferred O - Abandoned

REF	ITEM - ONE LINE TO EACH	Robert L. Teller	DUE	X T O	DATE
1	Magnetic Effect on Wine				
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31					



b) Bottle of Wine

a) Magnet

Detail: Salama Pinot Noir
and Puffins Chianti.
Both exhibited similar
taste and more...
Magnet with and without
like degenerate bearing upon
structure and timing of
process.

Basically a positive effect was reached in
15 min & 25 minutes average with magnet
signs that worked.

Witnessed and participating in testing.

[Signature]

Frank L. Teller

[Signature]

MEMO GENDA.

PATENT & TRADEMARK OFFICE
JUL 20 2005

PAGE 5

X - Completed T - Transferred Q - Abandoned

REF	ITEM - ONE LINE TO EACH	Robert S. Sutzka	DUE	X T Q	DATE
1	The Magnetic effect upon wine				
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31					



Test w/ La Cune Pint Nois
and Pilsener Beer's Chant
Using steel plate under
magnet. I created a more
directed flux path in (B) faster
intensity with use of steel plate.
Shortly after below test.

B) magnet
C) metal
plate

Wines opened faster than
previously with more
efficiency. Low oxygen
ion reaction time was
a bit faster.

Magnets that were too weak had no effect
to only very modest hard to detect results.
Too strong and wine started to re-ferment
or flatten.

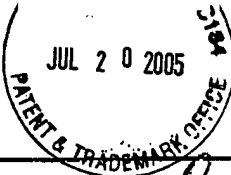
Tested by the following witnesses

[Signature] Frank Johnson Sam Martin

MEMORANDA.

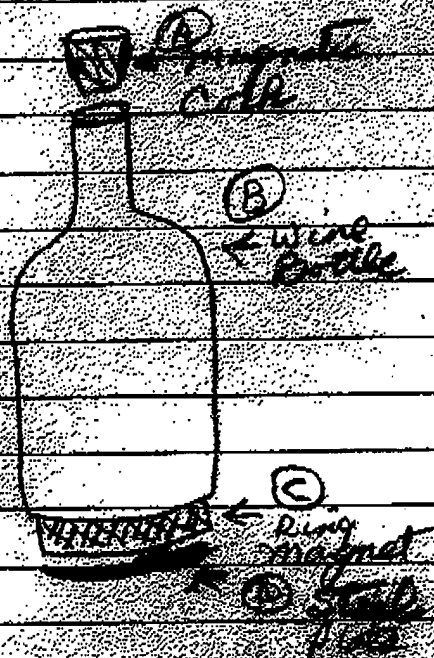
JUL 20 2005

PAGE 8



X - Completed T - Transferred O - Abandoned

REF	ITEM—ONE LINE TO EACH	DUE	X T O	DATE
1	Robert S. Lutzke			
2	Magnetic "ageing" of wine			
3				
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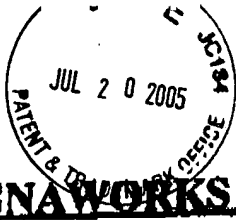


This is the ideal combination for treating wine. The magnetic coil (A) in combination with the ring magnet (C) at the bottom together with steel plate (D) under ring magnet. This configuration generates more and longer flux paths and better controls the intensity of a true magnetic field.

Wines tested, Ruffino Chianti and La Cuvée that were. But reduction in tannin aggression and last overall reaction in the wine. pH movement was significant and prolonged.

Dated and witnessed by:

Robert S. Lutzke Jim Martin



MAGNAWORKS TECHNOLOGY, INC.

TEL: 516-218-3431 FAX: 516-218-3432

BILL TO:

L K Manufacturing Corp.
P.O. Box 167
Huntington Station, NY 11746

SHIP TO:

L K Manufacturing Corp.
56 Eads Street
West Babylon, NY 11704

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
Samples	Net 30			Cust. P/U	Bohemia, NY	
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
2	RB-80	Magnetic cup assembly type RB-80				
		Zinc-plated				
8	500X125	Ceramic Magnet				
		Size: OD 0.515" x 0.125" thick magnetized through the thickness.				
4	768X236X108C	Ferrite C 1 magnet magnetized through the diameter				
		Size: 0.768" x 0.236" ID x 0.108" thick.				
6	1.00X125C8	Ceramic magnet disk grade C 8				
		Size: 1.00" x 0.125" thick				
		Magnetized				
6	1.00X187C8	Ceramic magnet disk grade C 8				
		Size: 1.00" x 0.187" thick				
		Magnetized				
6	3.368X1.25x.4	Ceramic magnet ring				
		Size: 3.368" x 1.25" x .495" thick magnetized through the thickness.				
		SAMPLES				

Please let me know how they test out.



6250-4/3340C

Tab stop ↓ for address

Adams

2 PART

carbonless
FORM NC 2873

SNAP · A · GRAM

FROM:

MAGNAWORKS, TECH. INC.
600 JOHNSON AVE. SUITE 16
BOHEMIA, NY 11716

DATE:

ATTENTION OF:

Mr. BOB LUTZKER
SUBJECT: MAGNET SAMPLES

TO:

L K MANUFACTURING Co.

BOB:

Enclosed you will find Coromin
Magnet Rings for your project as
follows:

- 1) 1.250" O.D. x .375" I.D. x .187" Thick - 6 per
- 2) 2.375" O.D. x 1" I.D. x .280" Thick - 6 per
- 3) 2.840" O.D. x 1.195" I.D. x .350" Thick - 6 per

In addition I am sending you pieces of Coromin
disc magnets 4.75" O.D. x .120" Th.

Let me know how they will test out.

SIGNED

DATE

Adams
NC 2873

Snap · A · Gram

JUL 20 2005

2 PART

FORM NC 2873

SNAP · A · GRAM



FROM:

MAGNAWORKS Tech, Inc.

DATE:

ATTENTION OF:

BOB LUTZKE

SUBJECT:

SAMPLES

TO:

PR Mfg.

VARIOUS SAMPLES of CERAMIC MAGNETS

4 pcs - 3.875" OD x 1.950" ID x .500" thick

4 pcs - 2.500" OD x 1.00" ID x .250" thick

6 pcs - 1" OD x .250" thick

6 pcs - 3/4" OD x 1/8" thick

6 pcs - 5/8" OD x 1/4" thick

Hold THESE MAGNET FOR BOB

LUTZKE P/C.

SIGNED

DATE

Snap · A · Gram



MAGNAWORKS TECHNOLOGY, INC.

600 JOHNSON AVE., SUITE D6 BOHEMIA, NEW YORK 11716

TEL: 516-218-3431 FAX: 516-218-3432

BILL TO:

L K Manufacturing Corp.,

P.O. Box 167

Huntington Station, NY 11746

SHIP TO:

L K Manufacturing Corp.

56 Eads Street

West Babylon, NY 11704

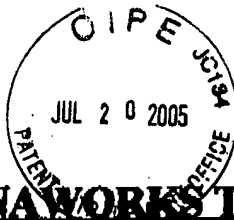
INVOICE

DATE

INVOICE #

M467

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
Samples				Cust. P/U	Boehmia, NY	
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
4	3.368X1.25X.4	Ceramic magnet ring Size: 3.400" x 1.25" x .375" thick magnetized through the thickness. SOUTH- POLE MARKED			0.00	0.00
3	3350128850C8	Ceramic Ring Magnet Size: 3.350" OD x 1.280" ID x 0.845" thick 2- pcs glued together at 0.420" thick and magnetized			0.00	0.00
6	1145X59X19...	Ceramic magnet Size: 1.145" x 0.590" x 0.195" thick magnetized through the thickness 0.195' dimension.			0.00	0.00
3	2X1X1C8	Ceramic8 Size: 2" x 1" x 1" thick Magnetized through the 1" dimension.			0.00	0.00
6	875X187C8	Ceramic magnet disk grade C 8 Size: 0.875" x 0.187"+/- .005 thick Magnetized with 2-Pole on each side.			0.00	0.00
Please let me know how they test out.					TOTAL	
					\$0.00	



MAGNAWORKS TECHNOLOGY, INC.

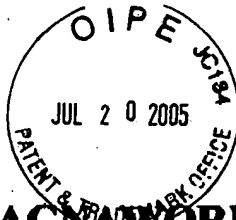
TEL: 516-218-3431 FAX: 516-218-3432

INVOICE #
M467

SHIP TO:

L K Manufacturing Corp.
56 Eads Street
West Babylon, NY 11704

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
Samples				Cust. P/U	Boehmia, NY	
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
4	3.368X1.25x.4	Ceramic magnet ring Size: 3.400" x 1.25" x .375" thick magnetized through the thickness. SOUTH- POLE MARKED				
3	3350128850C8	Ceramic Ring Magnet Size: 3.350" ID x 1.280" ID x 0.845" thick 2- pcs glued together at 0.420" thick and magnetized				
6	1145X59X19...	Ceramic magnet Size: 1.145" x 0.590" x 0.195" thick magnetized through the thickness 0.195" dimension.				
3	2X1X1C8	Ceramic8 Size: 2" x 1" x 1" thick Magnetized through the 1" dimension.				
6	875X187C8	Ceramic magnet disk grade C 8 Size: 0.875" x 0.187"+/- .005 thick Magnetized with 2-Pole on each side.				
Please let me know how they test out.						



MAGNAWORKS TECHNOLOGY, INC.

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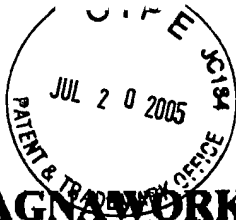
West Babylon, NY 11704

INVOICE

DATE

INVOICE #
M483

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
Samples				Cust. P/U	Bohemia, NY	
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
2	28301260330...	Ceramic Magnet Ring Grade C 8 Size" 2.830" OD x 1.260" ID x 0.330" thick Magnetized through the thickness			0.00	0.00
2	2350940280C8	Ceramic Magnet Ring grade C 8 Size: 2.350" OD x 0.940" ID x 0.280" thick Magnetized through the thickness .280" dim.			0.00	0.00
2	1760870230C8	Ceramic ring magnet grade C 8 Size" 1.760" OD x 0.870" ID x 0.230" thick Magnetized thru the thickness			0.00	0.00
8	500X25C8	Ferrite disk grade C 8 Size: 0.500" x 0.25" thick Magnetized through the thickness			0.00	0.00
8	472X197C8	Ceramic magnets C 8 grade. Size: 0.472" x 0.197" thick supplied magnetized.			0.00	0.00
It's been a pleasure working with you!					TOTAL	
					\$0.00	



MAGNAWORKS TECHNOLOGY, INC.

TEL: 516-218-3431 FAX: 516-218-3432

SHIP TO:

L K Manufacturing Corp.

56 Eads Street

West Babylon, NY 11704

INVOICE #

M483

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
Samples				Cust. P/U	Bohemia, NY	
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
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8	472X197C8	Ceramic magnets C 8 grade. Size: 0.472" x 0.197" thick supplied magnetized.				
It's been a pleasure working with you!						

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